

Date: 03/18/13



Environmental Management Consolidated Business Center (EMCBC)

**Subject: EMCBC or Service Level Agreement (SLA) National
Environmental Policy Act (NEPA) Public Participation
under NEPA**

PLAN

APPROVED: **Signature on File**
EMCBC Director

ISSUED BY: Office of Technical Support & Asset Management

1.0 PURPOSE

The purpose of this procedure is to document the requirements and recommendations for public participation for actions that are subject to the National Environmental Policy Act (NEPA). EMCBC intends to meet the spirit of NEPA as embodied in the requirements of the Secretarial Policy Statements, Council on Environmental Quality (CEQ), and DOE Implementing Regulations (see Section 4 below), as well as DOE Directives on NEPA and public participation. This procedure provide a detailed approach for assuring public participation is adequately incorporated in all applicable aspects of the NEPA process.

It is the Department's policy that public participation is a fundamental component in program operations, planning activities, and decision-making. Public participation provides a means for the Department to gather the most diverse collection of opinions, perspectives, and values from the broadest spectrum of the public, enabling the Department to make better, more informed decisions. EMCBC's public participation plans and activities will be designed to reflect this policy.

2.0 SCOPE

The scope of this Plan is to provide a detailed approach for assuring public participation is adequately incorporated in all applicable aspects of the NEPA process.

3.0 APPLICABILITY

This plan is applicable to EMCBC/SLA personnel who manage or are involved in NEPA actions under the purview of EMCBC.

4.0 REQUIREMENTS and REFERENCES

4.1 Requirements:

4.1.1 DOE NEPA Compliance Program, DOE Order 451.1B, June 25, 2010.

- 4.1.2 NEPA, 1969 (Pub. L. 91-190, 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, Pub. L. 94-83, August 9, 1975, and Pub. L. 97-258, § 4(b), Sept. 13, 1982).
- 4.1.3 CEQ “Regulations for Implementing NEPA,” 40 CFR Parts 1500 through 1508.
- 4.1.4 DOE “NEPA Implementing Procedures,” 10 CFR Part 1021.
- 4.1.5 DOE “Compliance with Floodplains and Wetlands Environmental Review Requirements,” 10 CFR Part 1022.
- 4.1.6 “Implementation Guidance for the DOE Policy on Documentation and Online Posting,” Office of NEPA Policy and Compliance (May 25, 2010).

4.2 References:

- 4.2.1 EMCBC/SLA PL-451-01, National Environmental Policy Act (NEPA) Compliance Program Plan
- 4.2.2 EMCBC/SLA NEPA IP-451-02, EMCBC or SLA Site National Environmental Policy Act (NEPA) Determination Procedure

5.0 DEFINITIONS

- 5.1 Glossary of Terms used in DOE NEPA Documents dated September 1998, located at http://energy.gov/sites/prod/files/NEPA_Glossary%2008_2011.pdf
- 5.2 DOE “NEPA Implementing Procedures,” 10 CFR Part 1021.104 definitions, located at <http://ceq.hss.doe.gov/nepa/regs/nepa1021rev.pdf>

6.0 RESPONSIBILITIES

6.1 The NEPA Compliance Officer (NCO)

- interfaces with the NEPA Document Manager (NDM),
- provides direction in identifying the public participation requirements for NEPA actions,
- provides advice in developing and implementing an effective strategy for public participation for NEPA actions
- determines the level of public participation, and

- approves a project specific public participation plan submitted by the NDM

6.2 NEPA Document Managers (NDMs) are responsible for

- implementing and conducting the applicable public participation requirements for the proposed action,
- ensuring that the public participation requirements are properly implemented and documented,
- communicating and interfacing with the NCO to ensure that public participation activities are effectively conducted, and
- developing a project specific Public Participation Plan, as required.

7.0 **IMPLEMENTATION REQUIREMENTS**

The document *Effective Public Participation under the National Environmental Policy Act*, second edition, dated August 19, 1998, online at:

<http://nepa.energy.gov/nepadocuments/TOOLS/GUIDANCE/Volume2/4-1-pubpart.html> presents the requirements and recommendations for effective public participation for categorical exclusions (CXs), environmental assessments (EAs), environmental impact statements (EISs), EIS supplement analysis, and supplemental EISs, as well as recommendations on general public participation activities.

- 7.1 While public participation plans for each project must be tailored to the project's specific circumstances, all EMCBC Participation Plans should contain the following elements:

7.1.1 **Background Information**

A brief description of the public participation “context” of the project, i.e., program or site public participation issues and activities that may have a bearing on the project.

7.1.2 **Public Participation Activities**

Identify and describe planned project-specific public participation activities, including their purpose, target participants, and how participants will be informed about the disposition of their input.

Identify how input from public scoping will be integrated with internal scoping efforts.

7.1.3 **Roles and Responsibilities**

Identify the roles and responsibilities of organizations and individuals who will implement the public participation activities, as well as those who will be provided with the resulting input.

7.1.4 **Schedule**

Provide a schedule of public participation activities, including when resulting input will be available.

- 7.2 Based on the level of the NEPA review (see Appendix A of the EMCBC NEPA Compliance Program Plan), the NDM will review *Effective Public Participation under the National Environmental Policy Act* for the requirements and recommendations for the proposed action.

7.2.1 **Categorical Exclusions**

Neither CEQ nor DOE NEPA regulations require public participation for CX determinations. However, DOE does require that all signed CXs be made available to the public online. Refer to Appendix C of the EMCBC NEPA Compliance Program Plan.

7.2.2 **Environmental Assessments**

The NEPA requirements for conducting public participation in the EA process depend on the scope of the proposed action. However, to meet the spirit of NEPA as embodied in the requirements of the Secretarial Policy Statements, CEQ, and DOE implementing procedures, as well as DOE Directives on NEPA and public participation, EMCBC requirements and options for inviting public participation are presented below. Because the degree of public interest and participation in EAs for specific projects will vary greatly, consultation between the NCO and the NDM is crucial. Additional options are discussed in the document *Effective Public Participation under the National Environmental Policy Act*.

7.2.2.1 The objective of conducting public participation for an EA is:

- To identify Stakeholders who choose to be involved during the planning process, and ensure that the Draft EA considers all comments.
- To offer Stakeholders the opportunity, through scoping, to identify topics, alternatives, or issues of concern that DOE should consider prior to initiating the EA analysis.

- To determine Stakeholder acceptance of the range of alternatives in the Draft EA and its components.
- To avoid late discovery of controversy arising from lack of Stakeholder acceptance.

7.2.2.2 Required public participation activities related to EAs and Findings of No Significant Impact (FONSI) include:

- Notifying the host State and host American Indian tribe, affected States and American Indian tribes as appropriate and the general public whenever possible of a decision to prepare an EA (10 CFR 1021.301(c)).
- Making a Draft EA available to host and affected States and American Indian tribes and, on request, members of the public (10 CFR 1021.301(d)), and making completed EAs and issued FONSI available to the public (10 CFR 1021.322(c)).

7.2.2.3 In addition to the requirements presented in Section 8 of *Effective Public Participation under the National Environmental Policy Act* discussed above, the NDM (often using NEPA contractor support) shall consider the following recommendations for affording public involvement in administration of the Draft EA:

- Develop a Public Participation Plan for the project. Include the objectives of the NEPA action, public meetings, media relations, website addresses, and points of contact.
- Conduct public scoping early in the EA process.
- Hold a public meeting(s) during the comment period.
- As appropriate, provide fact sheets or other materials for public meetings.

7.2.2.4 Issue a FONSI for a 30-day comment period if the following criteria are met: (1) the proposed action is, or is closely similar to, one that normally requires the preparation of an EIS; (2) the nature of the proposed action is one without precedent. The NDM should promote community understanding of a proposed action through the use of:

- Internet websites. Use Internet websites to provide public access to the EA.
- Announcement of the availability of the Draft EA in local newspapers and distribution of letters and/or postcards to Stakeholders.

7.2.2.5 Techniques for accomplishing the above requirements and the recommendations for affording public involvement include the following:

- **Media Relations.** Communicate information through newspapers and other media outlets in the local area. This may be accomplished by providing news releases or offering interviews.
- **Speakers Bureau.** EA/EIS project team members may be requested to give presentations before professional, civic, and other interested organizations. The NDM and NCO should approve the content of such presentations.
- **Public meetings.** If there are indications of sufficient public interest, public meetings may be used to educate stakeholders and the public. Evening or Saturday sessions should be considered.
- **Tours.** If applicable, develop a tour and provide supporting written material. Advertise the tour in media outlets or directly to the stakeholder mailing list.
- **Employee Communications.** Articles may be prepared for inclusion in DOE and contractor employee publications, and EA presentations may be given to employees.
- **Property Owners Communications.** Affected property owners should be kept informed of the project status. This may be accomplished by letters from the NDM or by any of the other means discussed above.

7.2.3 **Environmental Impact Statements**

7.2.3.1 The requirements and recommendation for the EIS public scoping process, Draft EIS, and Final EIS are presented in Sections 4, 5, and 6 of *Effective Public Participation under the National Environmental Policy Act*. The requirements are summarized below:

- disseminating the Notice of Intent (40 CFR 1508.22(b) and (c)),
- holding at least one public scoping meeting (10 CFR 1021.311(d)),
- soliciting and considering public comments as part of the scoping process (40 CFR 1508.22(b) and (c); 10 CFR 1021.311(a)),
- writing the draft EIS with the public in mind,
- circulating the draft EIS (40 CFR 1502.19),

- providing public notice of availability (40 CFR 1506.10(a)),
- soliciting public comments on the draft EIS (40 CFR 1503.1),
- holding at least one public hearing on the draft EIS (40 CFR 1506.6(c)(2),
- considering and responding to public comments on the draft EIS (10 CFR 1021.311(c) and (e)),
- filing the final EIS with the Environmental Protection Agency and making it available to the public (40 CFR 1506.9),
- publishing and disseminating the Record of Decision (10 CFR 1021.315 (c)),
- and if applicable, making copies of any Mitigation Action Plan that is prepared and any relevant monitoring results available to the public (10 CFR 1021.331(d)).

7.2.3.2 Public Meetings. A general public participation process flowchart can be found as Attachment A, identifying public participation opportunities. The NDM will prepare a project-specific Public Participation Plan that will consider the following specific to public meetings:

- The amount of time reserved for legislators and representatives of Stakeholder organizations during any public meeting.
- The length of time individuals will be allowed to speak during any public meeting. This is critical in order to ensure fairness to all; scheduled speaking times must be set and enforced from the outset of the meeting. Speakers representing a group of individuals or an organization are sometimes allowed to speak for longer time intervals than the individual time limit.
- The types of presentations that will or will not be allowed.
- The need for court reporters and facilitators.
- Method for presenting and preserving comments for the record.
- Allowances for media and media equipment.
- Adequate area for video crews to set up.
- Provide a sound hookup (multi-box) for video and radio reporters.

- Materials for media members with a list of speakers that includes full titles and contact information for follow-up questions.
- Plan for a spokesperson(s) to provide comments to members of the media.
- Need for a question and answer period. These may be difficult to manage. DOE representatives must be knowledgeable about the project and DOE policy in relation to the project. EIS contractor staff members should also be prepared to answer public and media questions.
- Meeting-room logistics.
- Adequate restroom facilities.
- Evacuation plan brief at the start of all meetings.
- Handicapped access.

7.2.4 Supplement Analysis and Supplemental EIS

7.2.4.1 The requirements and recommendations for the supplement analysis and supplemental EIS public involvement activities are presented in Section 7 of Effective Public Participation under the National Environmental Policy Act. The public involvement for a Supplement Analysis and Supplemental EIS are summarized below.

- When EMCBC or SLA Site prepares a Supplement Analysis to determine whether a Supplemental EIS is required, the EMCBC NCO will make the determination and the related Supplement Analysis available to the public. DOE must provide copies upon written request and make copies available in the appropriate public reading rooms or other appropriate locations for a reasonable time (10 CFR 1021.314(c)(3)).
- DOE must prepare, circulate, and file a Supplemental EIS in the same manner as any other draft and final EIS, except that scoping is optional for a Supplemental EIS (10 CFR 1021.314(d); 40 CFR 1502.9(c)(4)).

8.0 RECORDS MAINTENANCE

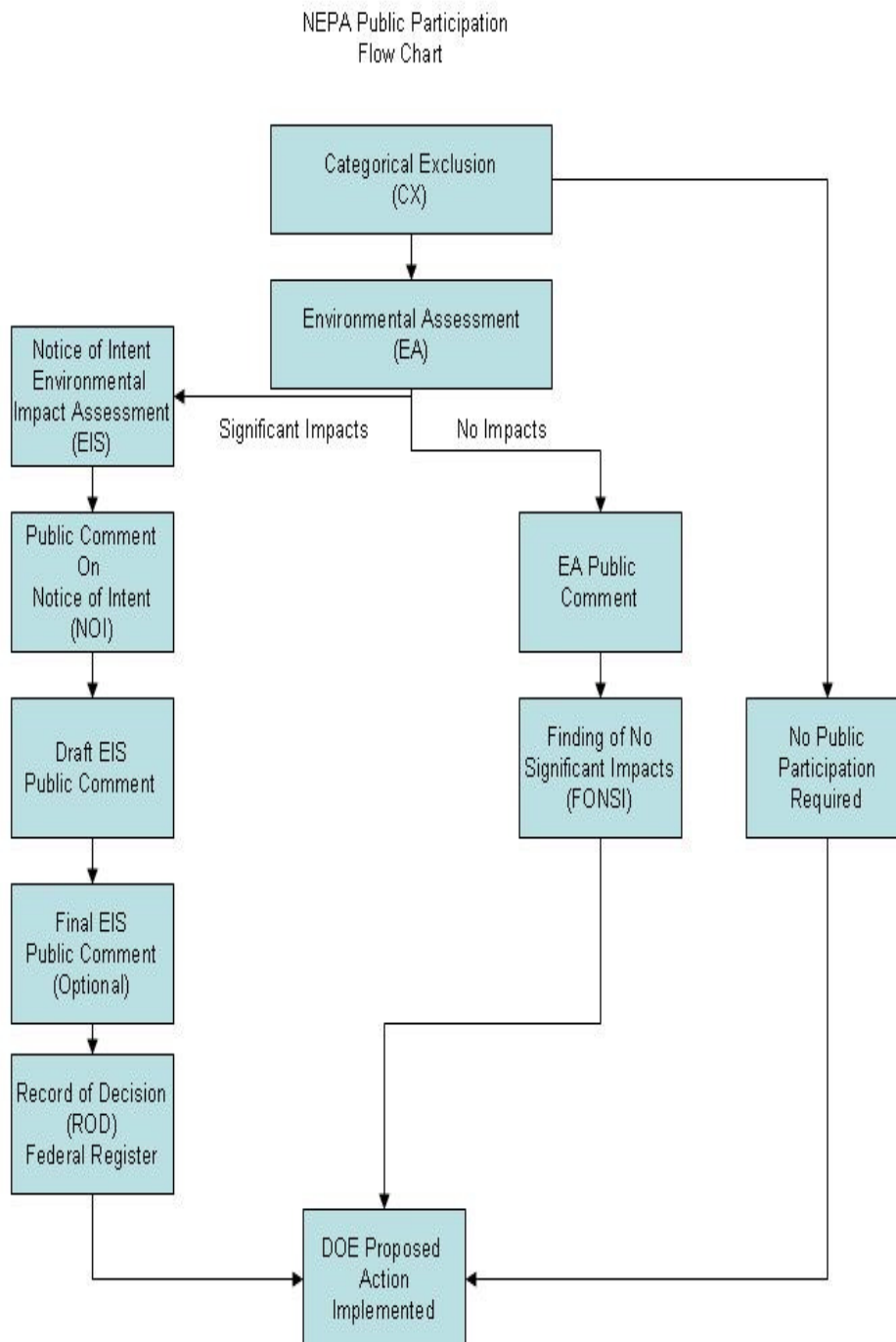
- 8.1 Records generated as a result of implementing this document are identified as follows and maintained in accordance with the Office of Technical Support and Asset Management File Plan:

- 8.1.1 ENV 02-F-01C - National Environmental Policy Act – Environmental Impact Statement – Final Published Version
- 8.1.2 ENV 02-F-02C - National Environmental Policy Act – Environmental Assessment Records – Background Documentation
- 8.1.3 ENV 02-F-03C - National Environmental Policy Act – Categorical Exclusion Records – Background Documentation
- 8.1.4 ENV 02-F-04 - National Environmental Policy Act Support Documentation

9.0 FORMS USED – N/A

10.0 FLOWCHART – EMCBC or SLA National Environmental Policy Act Public Participation.

10.0 FLOWCHART



EMCBC RECORD OF REVISION

DOCUMENT: EMCBC or Service Level Agreement (SLA) National Environmental Policy Act (NEPA) Public Participation under NEPA

If there are changes to the controlled document, the revision number increases by one. Indicate changes by one of the following:

I Placing a vertical black line in the margin adjacent to sentence or paragraph that was revised.

I Placing the words GENERAL REVISION at the beginning of the text.

Rev. No.	Description of Changes	Revision on Pages	Date
1	Initial Procedure	All	06/23/08
2	Added Records Section	9	03/18/13